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Attorneys for Plaintiff Bonnie McElrath

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

BONNIE MCELRATH

Case No. CV-08-1159-KI

Plaintiff

V

**PLAINTIFF'S MOTION FOR
DEFAULT, OR TO STRIKE
(ORAL ARGUMENT REQUESTED)
(TELEPHONE HEARING
REQUESTED)**

Defendants.

L.R. 7.1 (a)(i) CERTIFICATE OF COMPLIANCE

I hereby certify that I made a good faith effort to resolve the issue raised

²² in these motions by a phone conference with defense counsel, Joseph Charter,
²³ but our efforts to resolve the issues failed.

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1 MOTIONS
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3 Plaintiff moves for an Order entering a default against the defendants
4 and each of them, for failure to timely file their answer.

5 Alternatively, Plaintiff moves for Orders striking from Defendant's Answer
6 filed November 19, 2009 the following:

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8 1. Defendant's First Affirmative Defense; and/or

9 2. Defendant's Second Affirmative Defense; and/or

10 3. Defendant's Third Affirmative Defense; and/or

11 4. Defendant's Fourth Affirmative Defense; and/or

12 5. Defendant's Fifth Affirmative Defense; and/or

13 6. Defendant's Sixth Affirmative Defense; and/or

14 7. Defendant's Seventh Affirmative Defense; and/or

15 8. Defendant's First Counter-Claim.

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1 In support hereof, Plaintiff relies upon defendant's failure to comply with
2 FRCP 12(4)(A), the law of the case, the fact that a request for attorney fees in
3 defending a case is not a counterclaim, the BOLI probable cause finding issued
4 in Plaintiff's favor on the underlying facts of this case, the records and
5 documents now in the court file, the memorandum supporting this motion and
6 the Declaration of Charles J. Merten attached to said memorandum.
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8 DATED: November 24, 2009

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Charles J. Merten, OSB #630582
Attorney for Plaintiff